PCT/EP2003/000267

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2115/Dr.Tbr/	**FOR FURTHER ACTION**	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/EP2003/000267	International filing date (*day/month/year*) 14 January 2003 (14.01.2003)	Priority date (*day/month/year*) 06 February 2002 (06.02.2002)
International Patent Classification (IPC) or national classification and IPC C08F 283/12, 285/00, C08L 51/08, 51/04, 55/02		
Applicant RÖHM GMBH & CO. KG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 02 August 2003 (02.08.2003)	Date of completion of this report 29 April 2004 (29.04.2004)
Name and mailing address of the IPEA/EP Facsimile No.	Authorized officer Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP2003/000267

I. Basis of the report

1. With regard to the **elements** of the international application:*

☒ the international application as originally filed

☒ the description:

pages 1-32, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

☒ the claims:

pages 1-25, as originally filed

pages _____, as amended (together with any statement under Article 19

pages _____, filed with the demand

pages _____, filed with the letter of _____

☐ the drawings:

pages _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

☐ the sequence listing part of the description:

pages _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* *Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).*

** *Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.*

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees the applicant has:

☐ restricted the claims.

☒ paid additional fees.

☐ paid additional fees under protest.

☐ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

☐ complied with.

☐ not complied with for the following reasons:

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

☒ all parts.

☐ the parts relating to claims Nos. _____ .

INTERNATIONAL PRELI[redacted]RY EXAMINATION REPORT

International application No.
PCT/[redacted]03/00267

I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

5. The report has been established for claims 1-25.

Supplemental Box
(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: IV.

Lack of Unity of Invention

In view of Box V of the present report, particularly with regard to claim 1, the present application appears to lack unity of invention (PCT Rule 13.1). The present claims disclose different inventions (claims 1-6 and 8, claim 7; claim 9; claims 10-12; claims 13-14; claims 15-17; claims 18-23; claims 24-25) in the context of the fact that the "corresponding technical features" of the silicone rubber graft copolymer resins with a core-shell structure, as defined in claim 1, are not novel.

The applicant paid the required additional search fees in a timely manner.

Accordingly, the international search report has been established for all of claims 1-25.

INTERNATIONAL PRELI[redacted]RY EXAMINATION REPORT

International application No.
PCT/[redacted] 03/00267

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims		YES
	Claims	1-25	NO
Inventive step (IS)	Claims		YES
	Claims	1-25	NO
Industrial applicability (IA)	Claims	1-25	YES
	Claims		NO

2. Citations and explanations

1. This report considers the following search report citations, documents D1-D5; the numbering will be retained throughout the proceedings:

D1: US5223586
D2: US4945124
D3: US4812515
D4: US5981659
D5: EP0246537

3. Document D1 discloses silicone rubber graft copolymer resins with a core-shell structure, having at least one core (a), as defined in claim 1, and at least one shell (c) consisting of an organic polymer, as defined in claim 1. Claim 1 is a product claim within the meaning of the EPO Guidelines (Part C, Chapter III, paragraph 4.7b) for a "product defined in terms of a process of manufacture").

The disclosures in document D1 (claims 1-6; column 2, line 64 to column 3, line 68; column 6, lines 15-34 and 41-43; column 6, line 48 to column 7, line 3; column 1, lines 5-11; column 2, line 34 to column 7, line 3; column 4, lines 44-49, particularly at a temperature of

30°C or 60°C; examples; abstract) demonstrate that the subject matter of claims 1-18 does not appear novel within the meaning of the EPO Guidelines (Part C, Chapter III, paragraph 4.7b) for a "product defined in terms of a process of manufacture".

The disclosures in document D2 (abstract; claims 1-13; column 3, lines 43-61 and 66-68; column 3, line 22 to column 6, line 62) demonstrate that the subject matter of claims 1-6, 8-15, 18, 24 and 25 (EPO Guidelines, Part C, Chapter III, paragraph 4.7a for claim 25 and Part C, Chapter III, paragraph 4.7b as for D1) does not appear novel, particularly with regard to $x > 90$ mol%, $y < 10$ mol% and $z < 3$ mol%.

The disclosures in document D3 (claim 1; column 2, lines 14-23; abstract; column 4, line 20 to column 5, line 52; column 6, line 19 to column 8, line 28; column 8, lines 40-43; examples) demonstrate that the subject matter of claims 1-6, 8-15 and 18-25 does not appear novel in view of the EPO Guidelines (as for D2).

The disclosures in document D4 (claims 1-12; abstract; column 1, lines 26-49; column 2, line 28 to column 4, line 47, in particular column 3, lines 64-65; column 5, line 1) demonstrate that the subject matter of claims 1-6, 8-15, 18, 19, 22 and 23 does not appear novel in view of the EPO Guidelines (as for D2).

The disclosures in document D5 (claims 1-4; page 2, line 1 to page 4, line 55) demonstrate that the subject matter of claims 1-6, 8-15 and 18-25 does not appear novel in view of the EPO Guidelines (as for D2).